



The American Property Casualty Insurance Association (“APCIA”) thanks you for the opportunity to respond to suggested proposals relating to workers’ compensation and the coronavirus epidemic. APCIA represents nearly 60 percent of the U.S. property casualty insurance market and the broadest cross-section of home, auto, and business insurers of any national trade association, including more than 70% of the countrywide workers’ compensation market. APCIA members represent all sizes, structures, and regions, protecting families, communities, and businesses in the U.S. and across the globe. APCIA advocates for a healthy and stable state workers’ compensation system that provides prompt indemnity benefits and high-quality medical care to injured workers at a fair and reasonable cost to employers.

APCIA appreciates the magnitude of the current national emergency and respects the work of all stakeholders recommending equitable and workable solutions to the emerging health crisis and related financial issues. APCIA and the rest of the workers’ compensation industry stand ready to do its part to support both Oregon employers and employees in resolving problems arising from the coronavirus epidemic.

APCIA, however, believes it would be extremely dangerous to the health of the Oregon workers’ compensation system, a system that serves the interests of both Oregon employers and Oregon workers, for the legislature to entertain any recommendations that violate long-established bedrock principles of workers’ compensation law. The Oregon workers’ compensation system has worked effectively for more than a century. Prior to the enactment of the workers’ compensation system in 1913, an injured worker was without remedy for a workplace injury unless he or she successfully proved negligence on the part of the employer, and similarly, was without remedy if the employer could demonstrate the employee’s own negligence contributed to the injury. Likewise, prior to the enactment of the workers’ compensation act, Oregon employers were subject to civil damage suits by workers, with the costs, expenses and uncertainty attendant to civil litigation. Oregon, together with all other states in the country, enacted workers’ compensation laws to provide injured workers with prompt and certain indemnity and medical benefits, regardless of fault. In return for no-fault indemnity and medical benefits, the employer received freedom from civil litigation. The “grand bargain” of workers’ compensation has served workers and employers well for over a hundred years.

While state workers’ compensation systems have successfully provided injured workers with prompt indemnity benefits and unlimited medical care without any co-payment or deductible payment responsibilities for the injured worker, it is essential that a state’s system remain efficient and in balance. Essential to maintaining a stable and healthy no-fault workers’ compensation system guaranteeing injured workers prompt indemnity benefits and unlimited medical care without any deductibles or co-payments is proof that the covered injury or disease arises out of and in the course of employment. Likewise, while occupational diseases are covered, there must be proof the disease arises out of and in the course of employment. Moreover, the occupational disease must be a disease an employee is not ordinarily

subjected or exposed other than during a period of actual employment. Ordinary diseases cannot and are not covered by workers' compensation.

APCIA objects to any coronavirus proposal that would dispense with either the requirement that a worker prove that his or her injury arose out of and in the course of employment or the requirement that the claimant provide medical proof of the injury. In addition, any claim of an occupational disease must prove that the illness is not an ordinary disease of life but, rather, is specific to the type of industry or employment where the disease was contracted. Adoption of such a proposal, particularly on a supposed retroactive basis, would vitiate over a century of long-established law, re-write existing contracts between employers and insurers, and raise constitutional issues. To remove any of these bedrock workers' compensation principles would potentially disrupt the continued health and balance of the Oregon system and threaten the grand bargain between employers and employees in creating system that pays employees indemnity and medical benefits for workplace injuries regardless of fault.

APCIA is willing to work with legislators and stakeholders to help devise more equitable, less dangerous, solutions to employment issues arising out of the coronavirus epidemic. Perhaps unemployment insurance laws may be modified to allow better access of funds by workers displaced by the epidemic. Family Leave Act provisions might be modified to help families who must leave work to care for dependents.

Lastly, APCIA notes the importance of the Workers' Compensation Labor-Management Advisory Committee. Since the establishment of the Labor-Management Advisory Committee by the legislature in 1990, all modifications to the workers' compensation law has first gone through the approval process of the Advisory Committee. The Advisory Committee since its founding has been the forum for labor and business interests to explore and resolve workers' compensation issues. The Advisory Committee is committed to a stable, balanced and fair workers' compensation system with adequate benefits for injured workers at an affordable cost to employers. Any proposed modifications to the workers' compensation law should first go through the Labor-Management Advisory Committee process for approval.